

REMARKS

Restriction Requirement

Claims 1-22 are subject to a restriction requirement. The Examiner has required Applicant to elect one of six allegedly patentably distinct inventions for examination. The Examiner has stated that "Groups I-VI are directed to groups that recite structurally and functionally distinct elements, are not required one for the other, and/or achieve different goals."

Applicant respectfully traverses based on at least the following. Group II (Claims 6-8) is drawn to a "method for assessing the cancerous phenotype of a colon cell via expression level comparison." Group IV (Claim 13) is drawn to a "method for assessing the tumor burden of a subject."

The Examiner as a rationale has stated only that "these methods are often separately characterized and published in literature and would add undue search burden if they were all searched together." This rationale appears incorrect in asserting that the claim of Group IV does not "encompass" the claims of Group II. Applicant asserts that "assessing the tumor burden of a subject" *requires* the "assessment of a cancerous phenotype" of the cell type in question. The term "tumor burden" can include both a qualitative (ie. presence or absence of tumor cells, and type of tumor cells) as well as a quantitative (numerical level of expression binding) aspect.

Although Applicant respectfully traverses the Restriction Requirement on the above grounds, Applicant provisionally elects herein Group II drawn to a "method for assessing the cancerous phenotype of a colon cell via expression level comparison, classified in class 702, subclass 19."

Applicant reserves the right to prosecute the claims encompassed by any of the non-elected groups in future divisional applications.

Applicant requests examination of the elected subject matter on the merits.

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Conclusion

The examination of the pending claims and passage to allowance are respectfully requested.

Respectfully submitted,

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By:



Julia R. Rosenthal
Reg. No. 54,410

NOVARTIS VACCINES AND DIAGNOSTICS, INC.
Corporate Intellectual Property
P.O. Box 8097
Emeryville, CA 94662-8097
(510) 923-3949